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STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

JOINT PETITION OF INDIANAPOLIS POWER & LIGHT COMPANY, NORTHERN INDIANA PUBLIC SERVICE COMPANY, SOUTHERN INDIANA GAS AND ELECTRIC COMPANY, D/B/A VECTREN ENERGY DELIVERY OF INDIANA, INC., AND THE INDIANA OFFICE OF UTILITY CONSUMER COUNSELOR FOR APPROVAL OF SETTLEMENT ESTABLISHING A MECHANISM FOR THE RECOVERY OF PURCHASED POWER COSTS.	)	**CAUSE NO. 43186** **FINAL ORDER AS TO INDIANAPOLIS POWER & LIGHT COMPANY AND SOUTHERN INDIANA GAS AND ELECTRIC COMPANY, D/B/A VECTREN ENERGY DELIVERY OF INDIANA, INC.** **APPROVED:** MAR 2 2 2007

BY THE COMMISSION:
David E. Ziegner, Commissioner
Abby R. Gray, Administrative Law Judge

On November 30, 2006, Indianapolis Power & Light Company ("IPL"), Northern Indiana Public Service Company ("NIPSCO"), Southern Indiana Gas and Electric Company d/b/a Vectren Energy Delivery of Indiana, Inc., ("Vectren"), and the Indiana Office of Utility Consumer Counselor ("OUCC") (collectively "Joint Petitioners") filed their Joint Petition with the Indiana Utility Regulatory Commission ("Commission") for approval of a settlement of the issues involving recovery of purchased power costs. IPL, NIPSCO and Vectren also submitted Direct Testimony in support of the relief requested on November 30, 2006.

On January 3, 2007, the Board of Commissioners of LaPorte County, Indiana ("LaPorte County") filed a Petition to Intervene.

Pursuant to public notice duly given and published, proof of which was incorporated into the record by reference and placed in the Commission's official file, a public hearing was held in this Cause on February 1, 2007, at 10:00 a.m. EST in Room E306, Indiana Government Center South, Indianapolis, Indiana. At the hearing, Joint Petitioners and LaPorte County appeared, by counsel, and advised the Commission that all parties had agreed to allow IPL and Vectren to proceed upon their requests for relief and that LaPorte County did not object to IPL and Vectren's request for relief, however, it did not waive its right to raise any issue with regards to the relief requested by NIPSCO in this proceeding. IPL and Vectren then offered their prefiled testimony and exhibits, which were admitted into evidence without objection. No other evidence was offered. No other party appeared. NIPSCO's hearing on its request for relief in this Cause was continued to February 13, 2007 for presentation of evidence by NIPSCO, OUCC and LaPorte County. A separate order will be issued for NIPSCO.

Based upon the applicable law and the evidence of record, the Commission now finds:

1. **Notice and Jurisdiction.** Proper notice of the hearing in this Cause was given as required by law. IPL and Vectren are public utilities within the meaning of I.C. 8-1-2-1 of the Public Service Commission Act, as amended, and are subject to the jurisdiction of the Commission. The OUCC is the state agency that represents the interests of all utility consumers and the public in matters relative to the provision of utility services. The Joint Petition concerns the recovery of purchased power costs, a matter within this Commission's jurisdiction under I.C. 8-1-2-42. The Commission has jurisdiction over Joint petitioners and the subject matter of this Cause in the manner and to the extent provided by the laws of the State of Indiana.

2. **Purchased Power Benchmark Background.** The seminal case in the development and use of purchase power benchmarks for the recovery of power purchases in fuel adjustment clause proceedings is Cause No. 41363, the Commission's investigation of the treatment of purchased power costs in summary fuel adjustment clause proceedings.

Due to the increasing opacity of the costs included in market purchases of electricity, the Commission sought the answer to two questions regarding such transactions: (1) Should the Commission set a benchmark for power purchases and (2) What should the benchmark be? The Commission's answers to these questions were that a benchmark should be used and the benchmark should be each utility's highest on-system fuel cost calculated on a monthly basis.

The Commission further found that the benchmark is not a cap, but rather, a triggering mechanism. Weekly average purchases above the benchmark could only be recovered if the utility submits evidence demonstrating and the Commission subsequently finds the reasonableness of the above-benchmark purchases.

To resolve legal challenges the OUCC brought against the Commission's order in Cause No. 41363, Petitioners IPL and SIGECO (a.k.a. Vectren) reached settlement agreements with the OUCC in conjunction with their FAC proceedings. In pertinent part, the settlement agreements set the benchmark price for economy power purchases at $77.50 / MWh, allowed for the scrutiny of purchased power on a transaction by transaction basis, not an averaged basis, and allowed for sharing of risks between the utilities and their customers for purchases made during unit capacity loss situations.

The original settlement agreements were revised and extended in March 2001 in Cause No. 41964. The only material revision to the original agreements was the setting of the benchmark price of purchased power to $97.50 / MWh. This revision reflected rising gas and oil prices during this time period. In March 2002, in Cause No. 42203, a second revised agreement was reached. The second revision reset the benchmark price of purchased power to $77.50 / MWh and extended the revised agreement through March 31, 2004. In May 2004, in Cause No. 42616, a third revised agreement was approved. The third agreement is identical to the agreement reached in Cause No. 42203 and extended the agreement through March 31, 2005.

The current settlements, approved in Cause No. 42770 for IPL and SIGECO, moved from a pre-determined set value to one that is indexed to the price of natural gas or fuel oil.

3. **Stipulation and Agreement.** The record indicates that IPL, Vectren and the OUCC initiated this proceeding through their Joint Petition to obtain approval of the Stipulation and Agreement for the resolution of the recovery of purchased power costs within the quarterly FAC filings for on and after April 1, 2007, for a period ending April 30, 2008. The OUCC, IPL and Vectren agree that the terms and conditions set forth in the Stipulation and Agreement and the Settlement Terms attached thereto as Exhibit A, represent a fair, reasonable, and just resolution of all issues regarding purchased power and that the evidence presented in this Cause constitutes substantial evidence sufficient to support this Stipulation Agreement and provides an adequate evidentiary basis upon which the Commission can make any findings of fact and conclusions of law necessary for the approval of the Stipulation and Agreement.

The Stipulation and Agreement provides for an agreed recovery mechanism for purchased power costs which will replace the Commission's March 23, 2005 Order in Cause No. 42770. The Stipulation and Agreement also contains related provisions, including a requirement that the Joint Petitioners will use their best efforts to negotiate a comprehensive, ongoing mechanism for the recovery of appropriate purchased power costs for purchases subsequent to April 30, 2008. In the event the Joint Petitioners are unable to reach an agreement by December 1, 2007, it is agreed that the Stipulation and Agreement should continue in effect until April 30, 2008, unless the Commission issues an earlier final ruling.

In support of the Stipulation and Agreement and resulting benchmark, Mr. Henley for IPL and Mr. Jochum for Vectren testified that the benchmark provides IPL and Vectren and their customers with predictability regarding the recovery of purchased power costs and provides the necessary stability for IPL and Vectren to purchase replacement power in the instances of unavoidable unit outage or for situations where demand promotes extremely high and uncertain wholesale prices. They testified that the agreed term of the monthly standard methodology for a period to end with power purchase on April 30, 2008 will beneficially coincide with the end of the current Settlement Agreement regarding the recovery of revenue sufficiency guarantee ("RSG") amounts. Their testimony indicated this term provides a reasonable balance between the administrative burden on IPL, the OUCC, and the Commission, and the changes in the marketplace. The testimony indicated this period will provide sufficient time for the parties and the Commission to review the workings of the Midwest ISO energy market and the monthly standard. Both Mr. Henley for IPL and Mr. Jochum for Vectren testified that the proposed purchased power recovery mechanism is in the public interest. Both indicated that allowing for the recovery of purchased power costs incurred to serve retail jurisdictional load during a major generating unit outage represents sound regulatory policy, and avoids the alternative of maintaining very high reserve margins. Both testified that the benchmark provides Vectren and IPL the financial certainty needed to be able to operate in an unregulated, wholesale market. It also provides the necessary stability to purchase replacement power in the instance of unavoidable unit outage or situations where demand promotes high and uncertain prices.

The witnesses testified that all stakeholders in the FAC process benefit by the monthly standard providing uniformity, predictability, efficiency, and stability in the review and treatment of purchased power costs. They described how the monthly standard has been administered and will continue to be administered and pointed out that the benchmark will continue to be a "triggering mechanism" whereby if it is exceeded under certain conditions the utility will have the opportunity to submit additional evidence demonstrating the reasonableness of its above benchmark power purchases for cost recovery, just as originally allowed in this Commission's generic purchased power Order in Cause No. 41363.

4. Findings. The Commission recognizes that the Stipulation and Agreement is not fully congruent with its findings in Cause No. 41363. Though the Stipulation and Agreement is in accord with the Commission's first finding in Cause No. 41363, that a purchase power benchmark is an appropriate triggering mechanism for the judgment of the reasonableness of power purchases, the calculation of the prospective benchmarks set forth in the Stipulation and Agreement do not mimic the methodology set forth by the Commission in said Cause.

The Commission finds, however, that the use of a monthly floating benchmark, reflecting price trends in a utility's marginal fuel cost, is more congruous with the findings in Cause No. 41363 than the past use of a static dollar per MWh figure. The Commission reiterates that the benchmark is not a cap or umbrella under which all costs should fall and therefore should be set at a level that is as reflective as possible of the utilities reasonably expected cost of purchased power under an economic dispatch regime. The Stipulation and Agreement calls for the benchmark to be set at "the higher of" oil or gas GT cost. The Commission approved such a methodology in Cause No. 42770 and is administratively aware that the results presented in the FAC filings under this authority show a marked difference between the derived benchmarks applying oil or gas pricing. While IPL, unlike Vectren, does include oil-fueled only generation in its on-system portfolio, opportunity for economic fuel switching is not encouraged by "the higher of" cost setting the benchmark. This does not comport with the methodology envisioned in Cause No. 41363. The Commission finds that amending the Stipulation and Agreement such that "the lesser of" oil or gas GT cost is utilized to set the benchmark is more reflective of the utilities' reasonably expected cost of purchased power under an economic dispatch regime.

There is another area of concern that has arisen during the course of the last approved benchmark settlement terms that needs clarified. Proposed Settlement term 2(a) contains "unless otherwise agreed" language which is that the parties can otherwise agree to something of which the Commission is unaware. This allows for agreement to void the prohibition on inclusion of specifically identified demand charges, capacity payments, option premiums, etc. Therefore, we find this provision should be modified to require Commission approval of "unless otherwise agreed" situations.

Therefore, we find, with regard to IPL and Vectren, the Joint Petition for relief under I.C. 8-1-2-42, the Stipulation and attached Settlement Terms with the modifications outlined herein are reasonable.

We realize that the settlement approved today will be implemented by IPL and Vectren in their respective FAC filings. Reasonable consideration of purchased power recovery and the FAC statute requires the Commission to make certain findings prior to their approval. In order to aid the Commission in its obligations, we find that IPL and Vectren should quarterly file testimony in each

FAC to which this settlement applies, setting forth evidence regarding the purchased power, including the volume, the cost, the reasons therefore, and the applicability and effect of the settlement approved herein.

5. **Effect of Stipulation and Agreement.** The Stipulation and Agreement states that all provisions shall be enforceable by any party, in any state court of competent jurisdiction. With regard to future citation of the Stipulation and Agreement, we find that our approval herein should be construed in a manner consistent with our finding in *Re Petition of Richmond Power & Light*, Cause No. 40434, approved March 19, 1997.

IT IS THEREFORE ORDERED BY THE INDIANA UTILITY REGULATORY COMMISSION that:

1. With regards to Indianapolis Power & Light Company and Southern Indiana Gas and Electric Company, d/b/a Vectren Energy Delivery of Indiana, Inc., the Stipulation and Agreement, including the Settlement Terms attached thereto as Exhibit A, filed November 30, 2006, shall be and hereby is approved consistent with the Findings herein.

2. The Parties shall comply with the additional evidence requirement for future FACs as set forth herein.

3. This Order shall be effective on and after the date of its approval.

GOLC, LANDIS, SERVER AND ZIEGNER CONCUR; HARDY ABSENT:
APPROVED: MAR 22 2007

I hereby certify that the above is a true and correct copy of the Order as approved.

Connie S. Childress

Connie S. Childress
Acting Secretary to the Commission